IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No.14852 of 2006.
Date of decision: 20.3.2007.

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Sem Pal and others.

.... Petitioner(s)

Versus

State of Punjab and others.

.... Respondents

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CORAM: HON'BLE MR.JUSTICE JASBIR SINGH
HON'BLE MRS.JUSTICE NIRMAL YADAV

-.-

Present:- Mr. Akshay Bhan, Advocate, for the petitioners.

Mr. S.S.Randhawa, AAG, Punjab.

Mr. Kanwaljit Singh, Advocate, for respondent No.6.

Jasbir Singh, J. (Oral)

By filing this writ petition, the petitioners have made a prayer that the impugned Memo No. 901/06 dated 5.7.2006 (Annexure P/4) be quashed. Further prayer is for redistributing the Bachat land, which is lying unutilised, amongst the co-sharers from whom it was taken, after imposing a cut during consolidation proceedings.

At the time of arguments it was brought to our notice that for the requisite relief the petitioners had earlier filed an application under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961. However, the same was got dismissed as withdrawn. Their counsel states that the petitioners, because of the illiteracy, could not understand the intricacies of law and the said application was dismissed as

withdrawn under some mis-impression.

We feel that in the present case disputed questions of fact are involved. It is yet to be ascertained whether consolidation proceedings were conducted in this village and also that whether any land was kept reserved/separate for the common purposes. These facts along with other disputed questions can be raised and better decided by the competent authority under the Punjab Village Common Lands (Regulation) Act or under the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.

In view of the facts mentioned above, we dispose of this writ petition with liberty to the petitioners to file application before the competent authority under the above mentioned provisions. The Gram Panchayat will not raise any objection with regard to the withdrawal of the earlier application. The competent authority is directed to decide the matter on merits without looking into any technical objections raised by any of the parties. If such an application is moved within one month, the same shall be disposed of preferably within nine months thereafter.

(Jasbir Singh)
JUDGE

(Nirmal Yadav)
JUDGE

March 20, 2007
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